

Entered - 03/24/04 - sb
CL04L0188 - DIANNE C. MITCHELL

CLAIM OF: **CLARENCE SHAFFER,**
through his insurance carrier,
USAA
P. O. Box 659461
San Antonio, Texas 78265

04- R -0678

For damages alleged to have been sustained as a result of property damage due to a broken water main on September 3, 2003 at an undisclosed location.

BY:


JERRY L. DELOACH
DEPUTY CITY ATTORNEY

ADVERSE REPORT

PUBLIC SAFETY &

LEGAL ADMINISTRATION COMMITTEE

DATE: 4/27/04

CHAIR: AT Smith

Mary Norwood

Clara Smith

Clara Hamilton

ADVERSED

MAY 03 2004

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CITY OF ATLANTA
OFFICE OF MUNICIPAL CLERK

RHONDA DAUPHIN JOHNSON, CMC
MUNICIPAL CLERK

May 13, 2004

55 TRINITY AVENUE, S.W.
SECOND FLOOR, EAST
SUITE 2700
ATLANTA, GEORGIA 30303
(404) 330-6033
FAX (404) 658-6273

USAA Southeast Regional Office
Insurance Carrier
Attn: Travis C. Jones
P. O. Box 659461
Santonia, Texas 78265

04-R-0678

RE: Clarence Shaffer

Dear Mr. Jones:

I sincerely regret that your client has been adversely affected by the circumstances raised in his/her claim for damages against the City of Atlanta. Your time and patience in this matter has been greatly appreciated.

However, I must notify you that the Atlanta City Council Adopted an Adverse Report on your client's claim at its regular meeting on December 01, 2004. In consultation with the City's Law Department, who conducted an investigation of the situation, the Council has determined that the City cannot accept responsibility for this matter and therefore cannot pay this claim.

If you desire any further information, please contact the **City Attorney's Office/Claims Division** at (404) 330-6400.

Yours very truly,

Rhonda Dauphin Johnson, CMC
Municipal Clerk

cc: Claims Division/Law Department

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 04L0188

Date: April 6, 2004

Claimant /Victim CLARENCE E. SHAFFER
BY: (Ins. Co.) USAA
Address: P. O. Box 659461, San Antonio, Texas 78265
Subrogation: X Claim for Property damage \$ 6,897.77 Bodily Injury \$
Date of Notice: 03/24/04 Method: Written, proper X Improper
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.)
Date of Occurrence 09/03/03 Place: Not Stated
Department Watershed Management Bureau: Drinking Water
Employee involved Disciplinary Action:

NATURE OF CLAIM: The claimant alleges his property was damaged due to a broken water main. However, the claim as presented does not comply with the requirements of notice as set forth in O.C.G.A. §36-33-5, in that the six month statute of limitations expired prior to receipt of the claim.

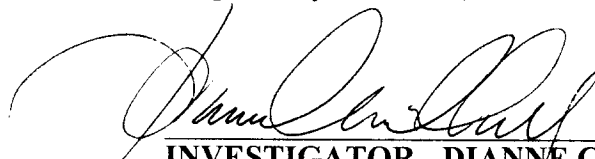
INVESTIGATION:

Statements: City employee Claimant Others Written Oral
Pictures Diagrams Reports: Police Dept Report Other
Traffic citations issued: City Driver Claimant Driver
Citation disposition: City Driver Claimant Driver

BASIS OF RECOMMENDATION:

Function: Governmental Ministerial X
Improper Notice More than Six Months X Other Damages reasonable
City not involved Offer rejected Compromise settlement
Repair/replacement by Ins. Co. Repair/replacement by City Forces
Claimant Negligent City Negligent Joint Claim Abandoned

Respectfully submitted,



INVESTIGATOR - DIANNE C. MITCHELL

RECOMMENDATION:

Pay \$ Adverse X Account charged: 1A01 2J01 2H01 2P01
Claims Manager: [Signature] Concur/date 04/14/04
Committee Action: Council Action



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UNITED SERVICES AUTOMOBILE ASSOCIATION
P.O. Box 659461, San Antonio, TX 78265

M. Mitchell
03/24/04
[Signature]

BUREAU OF WATER
651 14TH ST N.W.
ATLANTA GA 30318

ENTERED - 3-24-04 - SB
04L0188 - DIANNE MITCHELL

March 5, 2004

Policyholder: Clarence E. Shaffer
Reference Number: 467676-91A-519-8044
Date Of Loss: September 3, 2003
Loss Location: Atlanta, Georgia
USAA Tax ID Number: 74-0959140

dear sirs:

Our insured has submitted a claim under his Homeowners Policy. The loss was caused when a city water main burst flooding our insured basement.

Our investigation reveals that you are responsible for this loss. We have reimbursed our insured for damages sustained as a result of this loss and are entitled to be reimbursed for payments we have made; therefore, we are making a claim directly against you.

If you have liability insurance, please note your insurance company's name, agent's name, their addresses, and your policy number on the attached form and return it to us. We will then deal directly with your carrier.

Our claim payments are documented below:

Property Amount Paid	\$	6,647.77
Insured's Deductible	\$	250.00
Total Subrogation Demand	\$	<u>6,897.77</u>

Please forward your certified check or money order for the total amount payable to USAA as subrogee of our policyholder with the attached Payment Remittance form and show the reference number above on your check.

Be aware that no partial payment to USAA that is less than the full amount claimed herein will be considered in any way a satisfaction of this claim without an express written release of our claim executed by an individual who identifies himself/herself as a member of our Subrogation Department. Therefore, our legal rights to enforce collection on the remaining amount of the claim shall not be waived or estopped due

to a partial payment by you or someone acting on your behalf.
If you wish to discuss this matter, please contact me.

Sincerely,

Travis C Jones
Property Claims Adjuster
USAA Southeast Regional Office
Phone: 1-800-531-8222 Ext. 94794
Fax Phone: 770-979-4794

Encl: BR Env, Support Docs

04-R-0678